

### **REMARKS/ARGUMENTS**

The office action of November 16, 2004 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 10-27 remain pending in this application. Claims 1-9 were previously canceled without prejudice or disclaimer.

Applicant notes with appreciation the indication that the application contains allowable subject matter. Specifically, claims 10-27 stand rejected under 35 U.S.C. § 101, but would be allowable if rewritten to overcome the rejection.

The initialed PTO/SB/08 form returned with the office action of November 16 making the references cited by applicant of record appears not to include the Examiner initials next to the last listed reference (USP 5,977,977). If applicant is correct, the Examiner is respectfully requested to include a form making this reference of record with the next communication.

Claims 10-27 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants have amended the preamble of independent claims 10 and 20 to recite that the data structure is stored on a computer-readable medium to overcome this rejection. As such applicants submit that these claims are in condition for allowance. See *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

### **CONCLUSION**

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Appln. No.: 10/804,162  
Amendment dated November 30, 2004  
Reply to Office Action of November 16, 2004

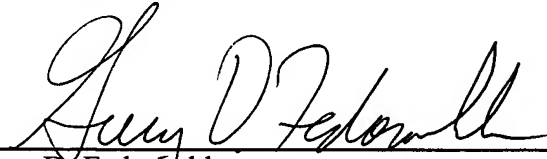
All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: December 1, 2004

By:

  
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